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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

**MAILED**

Application Number: 10/707,134

**JUL 19 2007**

Filing Date: November 21, 2003

**GROUP 3600**

Appellant(s): MARX, MICHAEL

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Kevin G. Mierzwa  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 11 May 2007 appealing from the Office action mailed 24 November 2006.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct; however, a new Information Disclosure Statement (form 1449) was filed after final rejection. A signed copy of this form is attached.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

5823588	Morghen	10-1998
4519236	Celette	05-1985

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 8, 12, 15-20, and 25-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Morghen (US Patent Number 5823588).
2. Regarding claims 8, 12, 15, 16, and 20, Morghen discloses an anchor device (10) for coupling an external device to a surface of a deck (38), said anchor device being received within an opening (through which element 40 passes) of the surface, said opening having an edge of the surface therein, said anchor device comprising: an anchor body (12, including 26, 40, 43, etc.) comprising a first body portion (16, 40, etc.) and a second body portion (14, 18, etc.), said anchor body positioned at least partially within said opening so that a fixed-dimension notch (viewed as the notch formed by 16, 40 and 41, and fixed in dimension in as much as Applicant's notch is) in the first body portion receives the edge of the surface, said second body portion comprising a coupler (22, 26) extending outward from the opening, said coupler capable of coupling to an external device, the first body portion having a first planar member (16) extending

parallel to said surface, said coupler extending in a direction perpendicular to said first planar member, said anchor body having a flange (20) fixedly coupled to said first planar member (via the second body portion) and said coupler, the second body portion being rotatably coupled to the first body portion (in that by removing fasteners 17, the second body portion could be rotated in increments of 90°) and having a second planar member (14) disposed parallel to the surface, coupled to the first planar member, and sized greater than said opening. [Note that while a specific external device is not disclosed, such a device (e.g. a hook) is inherent in the operation of the invention.]

3. Regarding claims 17-19, Morghen further discloses the second planar member has a first length (in the longitudinal direction) greater than an opening length and a first width (in the lateral direction) greater than an opening width (the opening length and width being the equivalent, longitudinal and lateral, measures of the opening).

4. Regarding claims 26 and 27, Morghen discloses an anchor device (10) for coupling an external device to a surface of a deck (38), said anchor device being received within an opening (through which element 40 passes) of the surface, said opening having an edge of the surface therein, said anchor device comprising: a first body portion (16, 40, etc.) having a longitudinal side (Figure 2) and a lateral side (Figure 3), said first body portion positioned at least partially within said opening so that a fixed-dimension notch (viewed as the notch formed by 16, 40 and 41, and fixed in dimension in as much as Applicant's notch is) formed in the lateral side receives the edge of the surface and partially positioned on said surface over said opening and a first member (16) positioned over the opening to engage a top surface of the deck; and a second

body portion (14, 18, etc.), having a coupler (22, 26) extending outward from the first body portion, said coupler capable of coupling to an external device, the second body portion being rotatably coupled to the first body portion (in that by removing fasteners 17, the second body portion could be rotated in increments of 90°). [Note that while a specific external device is not disclosed, such a device (e.g. a hook) is inherent in the operation of the invention.]

5. Regarding claim 25, Morghen further discloses the notch comprises a generally U-shape notch (see figures).

6. Regarding claims 28 and 29, Morghen further discloses the second body portion is fixedly coupled to the first body portion (via elements 17) forming a unitary structure.

7. Regarding claim 30, Morghen further discloses a flange (20) fixedly coupled to said first body member (via the second body portion) and said coupler.

8. Regarding claims 31 and 32, Morghen further discloses said first body portion further comprises an extension portion (17) having a circular shape, said extension portion extending into said second body portion.

9. Regarding claims 33 and 34, Morghen further discloses said second body portion comprises a first planar member (23) extending parallel to the surface and a second planar member (14) coupled to said first body portion and sized greater than said opening.

10. Regarding claim 35, Morghen further discloses the second body portion comprises a channel (through which 17 passes) therethrough for receiving a fastener (17), said fastener coupling said first body portion and said second body portion.

11. Claims 2-18, 20-23, 25-35, and 51 are rejected under 35 U.S.C. 102(b) as being anticipated by Celette (US Patent Number 4519236).

12. Regarding claim 3, Celette (Figures 1, 2, and 4) discloses an anchor device (1, 2, 5, 14, etc.) for coupling an external device to a surface of a deck (6), said anchor device being received within an opening (between elements 7 of 6) of the surface, said opening having an edge of the surface therein, said anchor device comprising: an anchor body (1, 2, 5, including 16, etc.) having a rectangular shape (various components of the anchor are rectangular, and its form is generally rectangular) with a longitudinal side (on left of Figure 1) and a lateral side (side seen in Figure 2), said anchor body positioned at least partially within said opening so that a fixed-dimension notch (viewed as the notch formed by elements 5a and 5b, and fixed in dimension in as much as Applicant's notch is) formed in the lateral side receives the edge of the surface, said anchor body comprising a coupler (formed by 16 and 18) extending outward from the opening, said coupler capable of coupling to an external device (for instance a vehicle body, not shown, but described in column 3 lines 16-21).

13. Regarding claim 2, Celette further discloses the notch comprises a generally U-shape notch (see figures).

14. Regarding claim 4, Celette further discloses the coupler comprises a first coupler (19 of 16) and a second coupler (18).

15. Regarding claim 5, Celette further discloses said first coupler and said second couple have a respective first coupling hole (in 19 for bolt 22) and a second coupling hole (in 18 for bolt 22) therethrough.

16. Regarding claim 6, Celette further discloses said first and second coupling holes are coaxial.

17. Regarding claim 7, Celette further discloses the anchor body comprises a first body portion (1) and a second body portion (5a, 5b, etc.), said first body portion having the coupler and said second body comprising said notch.

18. Regarding claims 9 and 10, Celette further discloses the second body portion is fixedly coupled to the first body portion (via screw element 2) forming a unitary structure.

19. Regarding claim 11, Celette further discloses the first body portion has a first planar member (horizontal member of 16) extending parallel to said surface, said coupler extending in a direction perpendicular to said first planar member.

20. Regarding claims 13 and 14, Celette further discloses said first body portion further comprises an extension portion (2) having a circular shape, said extension portion extending into said second body portion.

21. Regarding claim 21, Celette further discloses the second body portion comprises a channel (through which 2 passes) therethrough for receiving a fastener (2), said fastener coupling said first body portion and said second body portion.

22. Regarding claim 22, Celette further discloses a fastener plate (11a) coupled to the second body portion.

23. Regarding claims 8, 12, 15, 16, and 20, Celette discloses an anchor device (1, 2, 5, etc.) for coupling an external device to a surface of a deck (6), said anchor device being received within an opening (between elements 7 of 6) of the surface, said opening

having an edge of the surface therein, said anchor device comprising: an anchor body (1, 2, 5, including 16, etc.) comprising a first body portion (5a, 5b, etc.) and a second body portion (1), said anchor body positioned at least partially within said opening so that a fixed-dimension notch (viewed as the notch formed by elements 5a and 5b, and fixed in dimension in as much as Applicant's notch is) in the first body portion receives the edge of the surface, said second body portion comprising a coupler (formed by 16 and 18) extending outward from the opening, said coupler capable of coupling to an external device, the first body portion having a first planar member (horizontal member of 5a) extending parallel to said surface, said coupler extending in a direction perpendicular to said first planar member, said anchor body having a flange (17) fixedly coupled to said first planar member (via element 2) and said coupler, the second body portion being rotatably coupled to the first body portion and having a second planar member (horizontal member of 16) disposed parallel to the surface, coupled to the first planar member (via element 2), and sized greater than said opening (at least in one dimension). [Note that while a specific external device is not shown, a vehicle body is described in column 3 lines 16-21 as being engaged by the coupler.]

24. Regarding claims 17 and 18, Celette further discloses the second planar member has a first length or width (in the longitudinal direction) greater than an opening length or width (the opening length or width being the equivalent measure of the opening).

25. Regarding claim 23, Celette discloses an anchor device (1, 2, 5, etc.) for coupling an external device to a surface of a deck (6), said anchor device being received within an opening (between elements 7 of 6) of the surface, said opening having an edge of

the surface therein, said anchor device comprising: an anchor body (1, 2, 5, including 16, etc.) positioned at least partially within said opening so that a notch (viewed as the notch formed by elements 5a and 5b) receives the edge of the surface, said anchor body comprising a coupler (formed by 16 and 18) extending outward from the opening, said coupler capable of coupling to an external device, said coupler being trapezoidally-shaped (elements 18 and 19 both have trapezoidal shape, see Figure 4). [Note that while a specific external device is not shown, a vehicle body is described in column 3 lines 16-21 as being engaged by the coupler.]

26. Regarding claims 26 and 27, Celette discloses an anchor device (1, 2, 5, etc.) for coupling an external device to a surface of a deck (6), said anchor device being received within an opening (between elements 7 of 6) of the surface, said opening having an edge of the surface therein, said anchor device comprising: a first body portion (5a, 5b, etc.) having a longitudinal side (on left of Figure 1) and a lateral side (side seen in Figure 2), said first body portion positioned at least partially within said opening so that a fixed-dimension notch (viewed as the notch formed by elements 5a and 5b, and fixed in dimension in as much as Applicant's notch is) formed in the lateral side receives the edge of the surface and partially positioned on said surface over said opening and a first member (horizontal member of 5a) positioned over the opening to engage a top surface of the deck; and a second body portion (1), having a coupler (formed by 16 and 18) extending outward from the first body portion, said coupler capable of coupling to an external device, the second body portion being rotatably coupled to the first body portion. [Note that while a specific external device is not

shown, a vehicle body is described in column 3 lines 16-21 as being engaged by the coupler.]

27. Regarding claim 25, Celette further discloses the notch comprises a generally U-shape notch (see figures).

28. Regarding claims 28 and 29, Celette further discloses the second body portion is fixedly coupled to the first body portion (via screw element 2) forming a unitary structure.

29. Regarding claim 30, Celette further discloses a flange (17) fixedly coupled to said first body member (via element 2) and said coupler.

30. Regarding claims 31 and 32, Celette further discloses said first body portion further comprises an extension portion (2) having a circular shape, said extension portion extending into said second body portion.

31. Regarding claims 33 and 34, Celette further discloses said second body portion comprises a first planar member (lower horizontal portion of 18) extending parallel to the surface and a second planar member (horizontal member of 16) coupled to said first body portion (via element 2) and sized greater than said opening (at least in one dimension).

32. Regarding claim 35, Celette further discloses the second body portion comprises a channel (through which 21 passes) therethrough for receiving a fastener (21), said fastener coupling said first body portion and said second body portion (via element 2).

33. Regarding claim 51, Celette discloses an anchor device (1, 2, 5, etc.) for coupling an external device to a deck (6), said anchor device being received within an opening

(between elements 7 of 6) of the deck, said opening having an edge of the surface therein, said anchor device comprising: an anchor body (1, 2, 5, including 16, etc.) comprising a first body portion (5a, 5b, etc.) and a second body portion (1, etc.), said anchor body positioned at least partially within said opening so that a notch (in element 5b) in the first body portion receives the edge of the deck, said first body portion having a unitary structure (in that the elements are connected; 5a and 5b connected by 2, for example) including a first planar member (horizontal member of 5a) disposed adjacent to an upper surface of the deck and having at least one dimension larger than the opening, and a second planar member (5b) having the notch formed therein, said second planar member extending adjacent to the edge and a lower surface of the deck, said second body portion comprising a coupler (formed by 16 and 18) extending outward from the opening, said coupler capable of coupling to an external device. [Note that while a specific external device is not shown, a vehicle body is described in column 3 lines 16-21 as being engaged by the coupler.]

34. Claims 2-7, 9-11, 13, 14, 21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morghen.

35. Regarding claim 3, Morghen (Figures 1-3) discloses an anchor device (10) for coupling an external device to a surface of a deck (38), said anchor device being received within an opening (through which element 40 passes) of the surface, said opening having an edge of the surface therein, said anchor device comprising: an anchor body (12, including 26, 40, 43, etc.) having a longitudinal side (Figure 2) and a lateral side (Figure 3), said anchor body positioned at least partially within said opening

so that a fixed-dimension notch (viewed as the notch formed by 16, 40 and 41, and fixed in dimension in as much as Applicant's notch is) formed in the lateral side receives the edge of the surface, said anchor body comprising a coupler (22, 26) extending outward from the opening, said coupler capable of coupling to an external device. [While a specific external device is not disclosed, such a device (e.g. a hook) is inherent in the operation of the invention.] Morghen does not disclose an anchor body having a rectangular shape. Varying the shape of a body is well known in the art however, as shown by Morghen, who discloses both round and octagonal (see for example Figure 4) anchor body shapes. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to vary the shape of Morghen's anchor body to use a rectangular shape to suit the need and desires of a user (to better fit in a tight location or ease manufacture by allowing a less labor-intensive shape).

36. Regarding claim 2, Morghen further discloses the notch comprises a generally U-shape notch (see figures).

37. Regarding claim 4, Morghen further discloses the coupler comprises a first coupler (22) and a second coupler (26).

38. Regarding claim 5, Morghen further discloses said first coupler and said second couple have a respective first coupling hole (24) and a second coupling hole (aperture of 28) therethrough.

39. Regarding claim 6, Morghen further discloses said first and second coupling holes are coaxial.

40. Regarding claim 7, Morghen further discloses the anchor body comprises a first body portion (14, 18, etc.) and a second body portion (16, 40, etc.), said first body portion having the coupler and said second body comprising said notch.

41. Regarding claims 9 and 10, Morghen further discloses the second body portion is fixedly coupled to the first body portion (via elements 17) forming a unitary structure.

42. Regarding claim 11, Morghen further discloses the first body portion has a first planar member (14) extending parallel to said surface, said coupler extending in a direction perpendicular to said first planar member.

43. Regarding claims 13 and 14, Morghen further discloses said first body portion further comprises an extension portion (17) having a circular shape, said extension portion extending into said second body portion.

44. Regarding claim 21, Morghen further discloses the second body portion comprises a channel (through which 17 passes) therethrough for receiving a fastener (17), said fastener coupling said first body portion and said second body portion.

45. Regarding claim 22, Morghen further discloses a fastener plate (41) coupled to the second body portion.

#### **(10) Response to Argument**

Appellant's arguments filed with his appeal brief of 11 May 2007 have been reviewed but they are not considered persuasive. Appellant has provided numerous arguments associated with several alleged failures of the cited prior art to disclose the limitations of the claims. It is the examiner's opinion however, that the prior art

references do in fact disclose all of the claim limitations as set forth in the above rejections. In an attempt to clearly display how the prior art fulfills the claim limitations, elements corresponding to the various independent claim limitations have been diagrammed in the table below. Direct response to Appellant's arguments follows thereafter.

Independent Claim Limitation	Appellant's Reference Number [Specification paragraph number]	Prior Art Reference Number (see 5823588 to Morghen)	Prior Art Reference Number (see 4519236 to Celette)
First body portion	60 [30]	16, 40, etc.	5a, 5b, etc.
Second body portion	62 [30]	14, 18, etc.	1
Notch	50 [29]	Formed by 16, 40, 41	Formed by 5a, 5b
Coupler	64 [30]	22, 26	16, 18
First planar member	68 [31]	16	Horizontal member of 5a
Flange	70[31]	20	17

In response to Appellant's arguments, the use of the term "fixed-dimension" in relation to the notch is not viewed as distinguishing over the prior art. The dimensions of Appellant's notch appear to be fixed only by a threaded fastener (elements 76 and 80) in very much the same way that the dimensions of notches in the cited references are. Contrary to Appellant's assertion, there is no indication in the specification or drawings that the elements forming and fixing the size of the notch (i.e. elements 72 and 74) are welded or otherwise affixed together beyond being held by a threaded fastener. Like Appellant's notch, the notches of the prior art will be fixed so long as the fastener is tightened and held stationary. Regarding Appellant's arguments directed toward the

flange element, the flange of Morghen (20) is viewed as fixedly coupled as it is held in place between elements 14 and 16, while the flange of Celette (17) is viewed as a flange despite being called a “sole plate” by Celette and is in fact between the coupler and first planar member. Regarding Appellant’s arguments concerning the word “unitary,” the view is taken that the word “unitary” does not in itself require one-piece construction, only that the parts comprise a unit. This is in line with not only the plain meaning of the word, but with Appellant’s invention, in which an assembly of parts fixed together is considered unitary. Regarding Appellant’s arguments directed toward the edge and surface of Celette, the slide assembly (6) is viewed as comprising a surface and edge meeting the claim limitations. [Note that Appellant argues that Celette does not have an edge *above* the surface. While this may or may not be the case, Celette does have an edge *of* the surface, which is the actual claimed limitation.] Appellant further argues that Celette’s element 11a is a bolt and not a fastener plate. It is noted that element 11a is in fact a nut and has been viewed as a fastener plate (in that it is plate shaped and associated with a fastener). Finally, contrary to Appellant’s arguments, it is noted that the definition of a trapezoid simply requires two sides of a four-sided shape to be parallel. Accordingly, Celette’s coupler meets the limitation.

In summary, Appellant points to numerous areas in which he believes the prior art has failed to meet the claim limitations. As described above, it is the examiner’s opinion that the cited prior art meets all of the limitations as set forth and explained in the rejections.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Philip Gabler 



JAMES O. HANSEN  
PRIMARY EXAMINER

Conferees:

Lanna Mai 

Meredith Petravick 